

Page 1 of 3

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0206-AIR-E TCEQ ID: RN100215334 CASE NO.: 32601
RESPONDENT NAME: Air Liquide Large Industries U.S. LP

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Freeport Hyco Plant, 2398 Victoria Street, Freeport, Brazoria County</p> <p>TYPE OF OPERATION: Industrial gas manufacturing</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 16, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney/SEP Coordinator: None</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Ms. Lindsey Jones, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-4930; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468</p> <p style="margin-left: 20px;">Respondent: Mr. William Peebles, Production Engineer, Air Liquide Large Industries U.S. LP, 2398 Victoria Street, Freeport, Texas 77541</p> <p style="margin-left: 20px;">Mr. Scott Swafford, Zone Production Manager, Air Liquide Large Industries U.S. LP, 2398 Victoria Street, Freeport, Texas 77541</p> <p style="margin-left: 20px;">Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

DOCKET NO.: 2007-0206-AIR-E

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 18, 2006</p> <p>Date of NOE Relating to this Case: January 29, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. Three violations were documented.</p> <p>AIR</p> <p>1) Failed to notify the Commission of a reportable emission event no later than 24 hours after the discovery of the event. Specifically, the emission event occurred on October 15, 2006 and was not reported until October 20, 2006 [30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to properly operate emission control equipment during normal operations. Specifically, Air Liquide failed to maintain a flame at the Flare Stack on October 15, 2006 [30 TEX. ADMIN. CODE §§ 101.20(1) and (3), 101.221(a); 40 CODE OF FEDERAL REGULATIONS § 60.18(c)(2); Permit No. 32274/PSD-TX-955M1/N-042, Special Condition Nos. 9(A), and 9(B); and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>3) Failed to maintain carbon monoxide ("CO") emissions from the Flare Stack at or below the maximum allowable emission rate. Specifically, Air Liquide failed to maintain a flame at the Flare Stack, resulting in a total emissions release of 12,142 pounds of CO over a period of 11 hours and 17 minutes, or approximately 1,076.4 pounds per hour. The permitted hourly limit for CO is 37.80 pounds per hour. Since these emissions could have been foreseen and avoided by good design,</p>	<p>Total Assessed: \$6,681</p> <p>Total Deferred: \$1,336 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$5,345</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Air Liquide has implemented the following corrective measures at the Plant:</p> <p>a. Conducted both an informal review on the incident and its proper reporting, as well as refresher training to all relevant personnel on site by February 12, 2007 in order to prevent the reoccurrence of safety or similar events;</p> <p>b. Installed a second infrared flare monitor on October 20, 2006 and had both flare monitors adjusted and aligned by an OEM technician on November 3, 2006; and</p> <p>c. Provided refresher training to Process Technicians on visual flare monitoring and documenting observations on or by February 12, 2007.</p>

operation and maintenance practices, Air Liquide failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222 [30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c); Permit No. 32274/PSD-TX-955M1/N-042, Special Condition No. 1; and TEX. HEALTH & SAFETY CODE § 382.085(b)].		
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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES	Assigned	5-Feb-2007
	PCW	8-Feb-2007
	Screening	6-Feb-2007
	EPA Due	22-Oct-2007

RESPONDENT/FACILITY INFORMATION

Respondent	Air Liquide Large Industries U.S. LP		
Reg. Ent. Ref. No.	RN100215334		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	32601	No. of Violations	2	
Docket No.	2007-0206-AIR-E	Order Type	1660	
Media Program(s)	Air Quality	Enf. Coordinator	Lindsey Jones	
Multi-Media		EC's Team	EnforcementTeam 5	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$5,100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 41% Enhancement **Subtotals 2, 3, & 7** \$2,091

Notes The penalty was enhanced due to two previous 1660-style orders and one previous similar notice of violation. The penalty was reduced due to two NOAs and one DOV.

Culpability No 0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 10% Reduction **Subtotal 5** \$510

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes The Respondent re-lit the flame immediately upon discovery (October 15, 2006); installed a second infrared flare monitor on October 20, 2006; had both flare monitors adjusted and aligned by an OEM technician on November 3, 2006; and has implemented internal programs and refresher training to ensure proper reporting and visual flare monitoring in the future by February 12, 2007.

Total EB Amounts	\$40
Approx. Cost of Compliance	\$5,250

0% Enhancement*
*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$6,681

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment \$0

Notes

Final Penalty Amount \$6,681

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$6,681

DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

20% Reduction **Adjustment** -\$1,336

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$5,345

Screening Date 6-Feb-2007

Docket No. 2007-0206-AIR-E

PCW

Respondent Air Liquide Large Industries U.S. LP

Policy Revision 2 (September 2002)

Case ID No. 32601

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100215334

Media [Statute] Air Quality

Enf. Coordinator Lindsey Jones

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	2	-2%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	1	-2%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 41%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The penalty was enhanced due to two previous 1660-style orders and one previous similar notice of violation. The penalty was reduced due to two NOAs and one DOV.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 41%

Screening Date 6-Feb-2007

Docket No. 2007-0206-AIR-E

PCW

Respondent Air Liquide Large Industries U.S. LP

Policy Revision 2 (September 2002)

Case ID No. 32601

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100215334

Media [Statute] Air Quality

Enf. Coordinator Lindsey Jones

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 101.201(a)(1)(B) and Tex. Health & Safety Code § 382.085(b)

Violation Description Failed to notify the Commission of a reportable emission event no later than 24 hours after the discovery of the event, as documented during an investigation on December 18, 2006. Specifically, an emission event occurred on October 15, 2006 and was not reported until October 20, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1

4 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$131

This violation Final Assessed Penalty (adjusted for limits) \$131

Economic Benefit Worksheet

Respondent Air Liquide Large Industries U.S. LP
Case ID No. 32601
Reg. Ent. Reference No. RN100215334
Media Air Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$250	16-Oct-2006	12-Feb-2007	0.3	\$4	n/a	\$4
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to procure proper record keeping procedures designed to submit final reports on time. Date Required is the due date for the report. Final Date is the date that training on proper reporting was completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$4

Screening Date 6-Feb-2007

Docket No. 2007-0206-AIR-E

PCW

Respondent Air Liquide Large Industries U.S. LP

Policy Revision 2 (September 2002)

Case ID No. 32601

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100215334

Media [Statute] Air Quality

Enf. Coordinator Lindsey Jones

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 101.20(1) and (3), 101.221(a), and 116.115(c); 40 CFR § 60.18(c)(2); Permit No. 32274/PSD-TX-995M1/N-042, Special Condition Nos. 1, 9(A), and 9(B); and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to properly operate emission control equipment during normal operations, which resulted in an emission of carbon monoxide ("CO") above the maximum allowable emission rate. Specifically, the Respondent failed to maintain a flame at the Flare Stack on October 15, 2006, resulting in a total emissions release of 12,142 pounds of CO over a period of 11 hours and 17 minutes, or approximately 1,076.4 pounds per hour. The permitted hourly limit for CO is 37.80 pounds per hour. Since these emissions could have been foreseen and avoided by good design, operation and maintenance practices, the Respondent failed to meet the demonstrations for an affirmative defense in 30 Tex. Admin. Code § 101.222.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

1

Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$5,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$36

Violation Final Penalty Total \$6,550

This violation Final Assessed Penalty (adjusted for limits) \$6,550

Economic Benefit Worksheet

Respondent Air Liquide Large Industries U.S. LP

Case ID No. 32601

Reg. Ent. Reference No. RN100215334

Media Air Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							
Delayed Costs							
Equipment	\$3,000	15-Oct-2006	20-Oct-2006	0.0	\$0	\$3	\$3
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	15-Oct-2006	12-Feb-2007	0.3	\$33	n/a	\$33

Notes for DELAYED costs

Equipment cost is the approximate cost of the second infrared monitor and Other costs are the estimated costs of additional oversight and proper management practices designed to ensure maintenance of flame at Flare Stack. Date required is the date of the emission event. Final date under Equipment is the date the second monitor was installed and Final date under Other is the date flame monitoring training was completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$36

Compliance History

Customer/Respondent/Owner-Operator:	CN600300693	Air Liquide Large Industries U.S. LP	Classification: AVERAGE Rating: 3.33
Regulated Entity:	RN100215334	FREEPORT HYCO PLANT	Classification: AVERAGE Site Rating: 35.91
	AIR OPERATING PERMITS	ACCOUNT NUMBER	BL0626U
	AIR OPERATING PERMITS	PERMIT	2391
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000031138
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	86069
	AIR NEW SOURCE PERMITS	PERMIT	PSDTX995M1
	AIR NEW SOURCE PERMITS	PERMIT	32274
	AIR NEW SOURCE PERMITS	PERMIT	PSDTX995
	AIR NEW SOURCE PERMITS	PERMIT	N042
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX995
	AIR NEW SOURCE PERMITS	EPA ID	PSDTX995M1
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BL0626U
	AIR NEW SOURCE PERMITS	PERMIT	32274
	AIR NEW SOURCE PERMITS	AFS NUM	4803900146

ID Number(s):

Location: 2398 VICTORIA ST, FREEPORT, TX, 77541 Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: March 08, 2007

Agency Decision Requiring Compliance: Enforcement

Compliance Period: February 06, 2002 to February 06, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Lindsey Jones Phone: 512-239-4930

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 11/02/2003 ADMINORDER 2000-0565-AIR-E
Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Pro GC 8 PERMIT
Description: Exceeded permitted limits for CO from the flare.

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.121
30 TAC Chapter 122, SubChapter B 122.130(b)(1)

5C THC Chapter 382, SubChapter A 382.054
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit a timely FOP application and operation of a major source w/out a FOP.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.160(a)
40 CFR Chapter 52, SubChapter C, PT 52, SubPT A 52.21

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to obtain a Federal PSD permit prior to the construction and operation of a major source.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.10[G]

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit emissions inventory for 1998 and 1999.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.6[G]
30 TAC Chapter 101, SubChapter A 101.7[G]

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit notification of startup or maintenance activities on 23 occasions during 1997-1999.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.116(b)(1)[G]
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to represent volatile organic compound emissions related to the impurities in the raw hydrogen intake stream.

Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Part 60, Subpart A 60.18

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC 8 PERMIT

Description: Failure to conduct initial compliance testing on a flare.

Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.115(b)[G]
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: GC 8 & SC 2 PERMIT

Description: Exceeded nitrogen oxide and ammonia hrly emission rates on the SMR and ammonia hrly emission rates for the Auxiliary Boiler during testing conducted July 10 and 14.

Effective Date: 08/13/2004

ADMINORDER 2003-0040-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)
5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to log a daily observation as to whether or not the flare was smoking.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC1 PERMIT

SC12A PERMIT

Description: Failure to maintain and properly calibrate the continuous emissions monitoring system (CEMS) for the SMR and the auxiliary boiler which resulted in exceeding the firing rate and hourly emission rate for ammonia on both units.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC7D PERMIT

Description: Failure to install a continuous flow monitor and an analyzer that provides a record of the vent stream flow and heating value to the flare.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter A 101.20(3)

30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Part 60, Subpart Db 60.49b(i)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: SC10 PERMIT

Description: Failure to submit the semi-annual reports for the auxiliary boiler from May 1, 1998 to May 1, 2002.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 12B PERMIT

Description: Failure to conduct quality assurance tests for the continuous emissions monitors for SMR and auxiliary boiler.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
30 TAC Chapter 101, SubChapter A 101.20(3)
30 TAC Chapter 116, SubChapter B 116.115(c)
40 CFR Part 60, Subpart A 60.18
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 2f ORDER

SC7A PERMIT

Description: Failure to demonstrate that the flare meets the specification of minimum heating value and maximum tip velocity.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	07/21/2003	(126132)
2	07/21/2003	(126106)
3	02/26/2003	(21229)
4	09/22/2005	(432670)
5	01/29/2007	(534523)
6	03/03/2003	(20718)
7	09/30/2003	(247954)
8	11/18/2003	(248670)
9	08/22/2002	(1535)
10	01/23/2006	(450538)
11	05/26/2006	(467501)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date 01/23/2006 (450538)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)
30 TAC Chapter 122, SubChapter B 122.145(2)(C)

Rqmt Prov: OP FOD O-02391 General Terms and Conditions

Description: Failed to submit their deviation report within the 30 days of the reporting period.

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 101, SubChapter F 101.201(b)		
Description:	Failed to record their emissions events.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 122, SubChapter B 122.143(4)		
Rqmt Prov:	OP FOP O-02391, Special Condition 3A (iii)		
Description:	Failed to perform visible emissions observation.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)		
	30 TAC Chapter 122, SubChapter B 122.143(4)		
Rqmt Prov:	OP FOP O-02391 Special Condition 7		
	PERMIT NSR Permit N042 Special Condition 5B		
Description:	Exceeded their CO emissions limit from the auxiliary boiler exhaust.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)		
	30 TAC Chapter 122, SubChapter B 122.143(4)		
Rqmt Prov:	OP FOP O-02391 Special Condition 7		
	PERMIT NSR Permit N042, Special Condition 5A		
Description:	Exceeded their NOx emissions limit from the auxiliary boiler exhaust.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)		
	30 TAC Chapter 122, SubChapter B 122.143(4)		
Rqmt Prov:	OP FOP O-02391, Special Condition 7		
	PERMIT NSR Permit N042, Special Condition 4A		
Description:	Exceeded their NOx emissions limit from the steam methane reformer exhaust.		

F. Environmental audits.

Notice of Intent 10/22/2003 (263001)
 Disclosure Date: 4/27/2004 12:00:00 AM
 Viol. Classification: Major
 Citation: 30 TAC Chapter 116, SubChapter B
 Description: INCOMPLETE AUTHORIZATION OF SULFUR COMPOUND EMISSION
 Viol. Classification: Moderate
 Citation: 40 CFR Chapter 270, SubChapter I, PT 270, SubPT C
 Rqmt PERMIT SC 21
 Description: CONFORMANCE WITH LDAR REQUIREMENTS
 Viol. Classification: Moderate
 Citation: 30 TAC Chapter 116, SubChapter B
 Description: CO2 VENTS NOT REPRESENTED IN PERMIT
 Viol. Classification: Minor
 Citation: 40 CFR Chapter 270, SubChapter I, PT 270, SubPT C
 Rqmt PERMIT COND 5 AND 6
 Description: FLOW MEASUREMENTS INADEQUATE
 Notice of Intent 05/02/2006 (465946)
 No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AIR LIQUIDE LARGE INDUSTRIES
U.S. LP
RN100215334**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0206-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Air Liquide Large Industries U.S. LP ("Air Liquide") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Air Liquide appear before the Commission and together stipulate that:

1. Air Liquide owns and operates an industrial gas manufacturing plant at 2398 Victoria Street in Freeport, Brazoria County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Air Liquide agree that the Commission has jurisdiction to enter this Agreed Order, and that Air Liquide is subject to the Commission's jurisdiction.
4. Air Liquide received notice of the violations alleged in Section II ("Allegations") on or about February 3, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Air Liquide of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Six Thousand Six Hundred Eighty-One Dollars (\$6,681) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). Air Liquide has paid Five Thousand Three Hundred Forty-Five Dollars (\$5,345) of the administrative penalty and One Thousand Three Hundred Thirty-Six Dollars (\$1,336) is deferred contingent upon Air Liquide's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Air Liquide fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Air Liquide to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Air Liquide have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Air Liquide has implemented the following corrective measures at the Plant:
 - a. Conducted both an informal review on the incident and its proper reporting, as well as refresher training to all relevant personnel on site by February 12, 2007 in order to prevent the reoccurrence of same or similar events;
 - b. Installed a second infrared flare monitor on October 20, 2006 and had both flare monitors adjusted and aligned by an OEM technician on November 3, 2006; and
 - c. Provided refresher training to Process Technicians on visual flare monitoring and documenting observations on or by February 12, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Air Liquide has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, Air Liquide is alleged to have:

1. Failed to notify the Commission of a reportable emission event no later than 24 hours after the discovery of the event, in violation of 30 TEX. ADMIN. CODE § 101.201(a)(1)(B) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation on December 18, 2006. Specifically, the emission event occurred on October 15, 2006 and was not reported until October 20, 2006.

1. The first part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very important document, as it contains the President's views on the state of the Union and the progress of the war.

2. The second part of the document is a report from the Secretary of the War Department, dated January 10, 1862. It contains a detailed account of the military operations of the Army during the year 1861, and a statement of the resources of the Army for the year 1862.

3. The third part of the document is a report from the Secretary of the Navy Department, dated January 10, 1862. It contains a detailed account of the operations of the Navy during the year 1861, and a statement of the resources of the Navy for the year 1862.

4. The fourth part of the document is a report from the Secretary of the Department of the Interior, dated January 10, 1862. It contains a detailed account of the operations of the Department during the year 1861, and a statement of the resources of the Department for the year 1862.

5. The fifth part of the document is a report from the Secretary of the Department of the Treasury, dated January 10, 1862. It contains a detailed account of the operations of the Department during the year 1861, and a statement of the resources of the Department for the year 1862.

6. The sixth part of the document is a report from the Secretary of the Department of the State, dated January 10, 1862. It contains a detailed account of the operations of the Department during the year 1861, and a statement of the resources of the Department for the year 1862.

7. The seventh part of the document is a report from the Secretary of the Department of the War, dated January 10, 1862. It contains a detailed account of the operations of the Department during the year 1861, and a statement of the resources of the Department for the year 1862.

8. The eighth part of the document is a report from the Secretary of the Department of the Navy, dated January 10, 1862. It contains a detailed account of the operations of the Department during the year 1861, and a statement of the resources of the Department for the year 1862.

9. The ninth part of the document is a report from the Secretary of the Department of the Interior, dated January 10, 1862. It contains a detailed account of the operations of the Department during the year 1861, and a statement of the resources of the Department for the year 1862.

10. The tenth part of the document is a report from the Secretary of the Department of the Treasury, dated January 10, 1862. It contains a detailed account of the operations of the Department during the year 1861, and a statement of the resources of the Department for the year 1862.

11. The eleventh part of the document is a report from the Secretary of the Department of the State, dated January 10, 1862. It contains a detailed account of the operations of the Department during the year 1861, and a statement of the resources of the Department for the year 1862.

12. The twelfth part of the document is a report from the Secretary of the Department of the War, dated January 10, 1862. It contains a detailed account of the operations of the Department during the year 1861, and a statement of the resources of the Department for the year 1862.

2. Failed to properly operate emission control equipment during normal operations, in violation of 30 TEX. ADMIN. CODE §§ 101.20(1) and (3), 101.221(a); 40 CODE OF FEDERAL REGULATIONS § 60.18(c)(2); Permit No. 32274/PSD-TX-955M1/N-042, Special Condition Nos. 9(A), and 9(B); and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on December 18, 2006. Specifically, Air Liquide failed to maintain a flame at the Flare Stack on October 15, 2006.
3. Failed to maintain carbon monoxide ("CO") emissions from the Flare Stack at or below the maximum allowable emission rate, in violation of 30 TEX. ADMIN. CODE §§ 101.20(3) and 116.115(c); Permit No. 32274/PSD-TX-955M1/N-042, Special Condition No. 1; and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on December 18, 2006. Specifically, Air Liquide failed to maintain a flame at the Flare Stack, resulting in a total emissions release of 12,142 pounds of CO over a period of 11 hours and 17 minutes, or approximately 1,076.4 pounds per hour. The permitted hourly limit for CO is 37.80 pounds per hour. Since these emissions could have been foreseen and avoided by good design, operation and maintenance practices, Air Liquide failed to meet the demonstrations for an affirmative defense in 30 TEX. ADMIN. CODE § 101.222.

III. DENIALS

Air Liquide generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Air Liquide pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Air Liquide's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Air Liquide Large Industries U.S. LP, Docket No. 2007-0206-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088


2. The provisions of this Agreed Order shall apply to and be binding upon Air Liquide. Air Liquide is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Air Liquide in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Air Liquide, or three days after the date on which the Commission mails notice of the Order to Air Liquide, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

8/16/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

4-5-07
Date

SCOTT SWAFFORD

Name (Printed or typed)
Authorized Representative of
Air Liquide Large Industries U.S. LP

Zone Production Manager

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

